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| 09/629,320      | 07/31/2000  | ERIC R. SCHORMAN     | PF02024NA           | 4698             |

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| EXAMINER |
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HOLLOWAY III, EDWIN C

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| ART UNIT | PAPER NUMBER |
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2635

DATE MAILED: 07/09/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/629,320

**Applicant(s)**

SCHORMAN ET AL.

**Examiner**

Edwin C. Holloway, III

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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**EXAMINER'S RESPONSE**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4-26-04 has been entered. In response to applicant's amendment filed 4-26-04, all the amendments to the specification and claims have been entered. The examiner has considered the new presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

***Claim Objections***

2. Claims 12-13 are objected to because of the following informalities: Claims 12 and 13 depend from canceled claim 11. For purposes of prior art rejections made below, Claims 12-13 will be considered to depend from claim 10. Appropriate correction is required.

***Claim Rejections - 35 USC § 102 & 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under

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this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims x are rejected under 35 U.S.C. 102(e) as being anticipated by Mauney (US 64884027).

Regarding independent claims 1, 10 and 20, Mauney discloses an wireless direct handset-to handset communication network shown in fig. 3 that is considered to be an ad-hoc network of wireless handsets 42A,B that include a database memory 70, processor 61 and user output device 64,65 in figure 4A. The handsets (or members) broadcast to others a query message 64 including an ID "A" (S.96 in fig. 9A) another handset receives the query, records the ID and transmits a response in fig. 9B. The querying handset then displays ID, count number, name and signal strength in step S.102 of fig. 9A and col. 33 lines 7-32. Either the query or the response may be considered an announcement. Messages to exchange information to build a database is provided by the above query and response that forms a found list and/or by the memorize message in col. 16 lines 25-30 and col. 53 lines 20-30. Upon updating the found list, the

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headset displays the found list and also provides an audible beep, vibration or message display announcement in col. 30 lines 7-12 and col. 33 lines 27-30. An audible tone or message is also provided to announce update the master list by a memorize message in col. 54 line 13. Further, both updates depend on proximity (within range) based on signal strength in col. 7 lines 39-60, col. 9 lines 19-25, col. 33 line 11 and col. 53 lines 20-21. The found list identifies users table 2 listed in col. 27.

Regarding claims 3, 12 and 24, Mauney discloses displaying information as each announcement or response is received in fig. 9A step S.102 and col. 33 15-17.

Regarding claim 5, 14 and 21, Mauney includes proximity as discussed above.

Regarding claims 6, 16, and 23, Mauney specifies proximity by signal strings as discussed above.

Regarding claim 8, Mauney includes RF in view of antenna 62 and discussion of radio systems in the background.

Regarding claim 9, Mauney includes visual or audible output in as discussed above.

Regarding claims 17-19 the exchanging query/response and/or memorize messages builds a database in Mauney as discussed above.

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Regarding claims 26-27 Mauney includes a processor 61 associated with output device 65 that is a display in fig. 4A, col. 13 line 35-40 and col. 14 lines 37-40.

6. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mauney (US 64884027) as applied above in view of Chern (US 6381465).

Chern discloses an analogous art communication system with user output device displaying visually or announcing by voice an index or list of available services for user selection in col. 8 lines 18-67. The services may be listed, ranked or sorted according to user preference such as proximity in col. 11 lines 5-26 and col. 12 lines 29-43.

Regarding claims 28-30, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have ordered the list of Mauney as claimed because the services of Chern may be sorted by user preferences. The display of Chern includes a list that is sorted or ranked by proximity that would be desirable when providing find operation as disclosed in Mauney.

7. Claims 4, 13 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mauney (US 64884027) alone or in view of Chern (US 6381465) as applied above in view of Will (US 5479408).

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Will discloses an analogous art two way pager and method including queue with order dependent on urgency. See cols. 18 and 23. It would have been obvious to have included the list or queue order dependent on urgency of Will in Mauney or the combination applied above to assure that priority data is transmitted in a timely manner.

8. Claims 7, 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mauney (US 64884027) as applied above in view of Perkins (US 5412654).

Perkins discloses an analogous art ad-hoc network and method including in col. 6 information ranking preferences based on time or number of hops. It would have been obvious to have included the proximity specification Mauney according to the number of hops as disclosed in Perkins as preference for making connection decisions.

#### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1, 3-10 and 12-30 filed 4-19-04 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Currier (US 4833453), Alasaarela (WO 97/24627) and Farley (US 6735430)

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disclose proximity communication systems.

**CONTACT INFORMATION**


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact an Electronic Business Center (EBC) representatives at 703-305-3028 or toll free at 866-217-9197 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at [ebc@uspto.gov](mailto:ebc@uspto.gov). The Patent EBC is a complete customer service center that supports all Patent e-business products and service applications. Additional information is available on the Patent EBC Web site at <http://www.uspto.gov/ebc/index.html>.

Any inquiry of a general nature should be directed to the Technology Center 2600 receptionist at (703) 305-4700 or TC 2600 Customer Service at (703) 306-0377.

Facsimile submissions may be sent via fax number (703) 872-9306 to customer service for entry by technical support staff. Questions regarding fax submissions should be directed to customer service voice line (703) 306-0377.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (703) 305-4818. The examiner can normally be reached on M-F (8:30-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704.

EH  
6/27/04

  
EDWIN C. HOLLOWAY, III  
PRIMARY EXAMINER  
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